

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MICHAEL BOWEN and CHOL KIM a/k/a
BRANDON KIM

Defendants.

C.A. No.: 3:22-CV-1415-S

**PLAINTIFF'S REQUEST FOR CLERK TO ENTER DEFAULT
AGAINST DEFENDANT CHOL KIM a/k/a BRANDON KIM**

Plaintiff Securities and Exchange Commission (“Commission”), pursuant to Rule 55 of the Federal Rules of Civil Procedure, requests the Clerk of Court to enter a default against Defendant Chol Kim a/k/a Brandon Kim (“Kim”) for his failure to answer, plead, or otherwise respond to the First Amended Complaint filed in this action. In support of this request, the Commission shows the following:

1. The Commission filed its Complaint in this case on June 30, 2022. [Doc. 1.] The Clerk issued a Summons to Kim on July 1, 2022. [Doc. 4.]
2. On September 8, 2022, the Court granted Plaintiff's Motion for Substitute Service upon Kim. [Doc. 18]. Plaintiff served Kim by registered email on September 8, 2022, and further by personal service via a process server on September 9, 2022. [Doc 18.] Kim was required to answer or otherwise respond to the Complaint on or before September 30, 2022. *See* FED. R. CIV. P. 12; [Doc. 26]; Declaration of Jason J. Rose (“Rose Dec.”), attached hereto as **Exhibit 1**, at ¶ 3.

3. Kim did not file an answer to the Complaint or otherwise respond to it. [Doc. 26]; Rose Dec., at ¶ 3. Accordingly, on April 11, 2023, the Clerk of Court entered a default as to Kim. [Doc. 29]; Rose Dec., at ¶ 4.

4. On October 12, 2023, the Commission filed its First Amended Complaint, which asserted the *same* facts and claims as the Complaint as to Kim. *Compare* [Doc. 40], *with* [Doc. 1]; Rose Dec., at ¶ 6. Accordingly, Rule 5(a)(2) of the Federal Rules of Civil Procedure does not require the Commission to serve the First Amended Complaint on Kim under either Rule 4 or Rule 5. *See* FED. R. CIV. P. 5(a)(2); *In re Chinese-Manufactured Drywall Prod. Liab. Litig.*, 742 F.3d 576, 593 (5th Cir. 2014) (“Rule 5(a)(2) does not require a party in default be served with a pleading unless that pleading that [sic] asserts a *new claim* for relief.”).

5. Nevertheless, on October 12, 2023, the Commission served a copy of the First Amended Complaint on Kim via the RPost email delivery service. Rose Dec., at ¶ 7. RPost confirmed that the email was delivered that same day and opened the following day. *Id.*

6. Kim’s response to the First Amended Complaint was due to be served by October 26, 2023. *See* FED. R. CIV. P. 15(a)(3); Rose Dec., at ¶ 7. Kim has failed to answer or otherwise respond to the First Amended Complaint. Rose Dec., at ¶ 7.

7. Kim is not a minor, incompetent, or in the military. *Id.* at ¶ 9-10. He is not eligible for relief under the Servicemembers Civil Relief Act of 2003. *See* 50 U.S.C. Appendix, § 501 et seq. *Id.* at ¶ 9.

8. Therefore, the Commission respectfully requests that the Clerk of Court enter a default against Kim on the First Amended Complaint.

Dated: July 22, 2025

Respectfully submitted,

/s/ Jason J. Rose
JASON J. ROSE
Texas Bar No. 24007946
JEANEEN KAPPELL
Texas Bar No. 24069656
SECURITIES AND EXCHANGE COMMISSION
Fort Worth Regional Office
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, TX 76102-6882
(817) 978-1408 (jjr phone)
(817) 978-4927 (facsimile)
rosej@sec.gov
kappellj@sec.gov

COUNSEL FOR PLAINTIFF
SECURITIES AND EXCHANGE COMMISSION

CERTIFICATE OF SERVICE

On July 22, 2025, I electronically submitted the foregoing document to the Clerk of Court for the U.S. District Court, Northern District of Texas, using the court's electronic case filing system. Counsel registered with the CM-ECF system will be electronically notified.

On July 22, 2025, I served Defendant Chol Kim a/k/a Brandon Kim via RPost email delivery service to ckim1881@gmail.com.

/s/ Jason J. Rose
Jason J. Rose